

AGENDA
Interested Persons Meeting
428 J Street, Suite 800
Sacramento, CA 95814
January 16, 2007 - 10:00 a.m.

**Local Legal Defense Fund Regulation
and Gifts to an Agency Regulation**

Staff of the Fair Political Practices Commission will be holding an interested persons' meeting to solicit public input on (1) a regulation interpreting Government Code Section 85304.5 relating to legal defense funds for *local* candidates and officers and (2) amendments to Regulation 18944.2 concerning gifts to an agency. The Commission also invites written comments addressing these topics. To participate in this interested persons' meeting by telephone, please contact Virginia Latteri-Lopez at (916) 322-5660.

1. Local Legal Defense Fund Regulation (10 a.m. – 11 a.m.)

Background. AB 1441, signed into law on October 5, 2007, authorizes local candidates and officers to establish a separate legal defense account to defray specified attorney's fees and other related legal costs arising from their candidacy or official duties. New Government Code Section 85304.5 allows local candidates and officers to receive contributions to the separate account subject to any limitations provided by local ordinance. The statute specifies that all contributions to these separate accounts "shall be reported in a manner prescribed by the commission."

During its November 2007 meeting, the Commission approved amendments to Regulation 18530.4, relating to legal defense funds for *state* candidates and officers. The amended regulation clarified permissible uses for legal defense funds, and specified requirements for the establishment, maintenance, and termination of these accounts as permitted for state candidates and officers under Section 85304. In addition, the new rules specified recordkeeping and auditing rules applicable to legal defense committees.

This interested person's meeting is being held to solicit public comment and suggestions for proposed Regulation 18530.45, interpreting new Section 85304.5 extending legal defense fund provisions to candidates for *local* elective office and *local* officials. The proposed new regulation would cover the following areas: (1) the establishment of the legal defense account and controlled committee; (2) recordkeeping requirements and audits of the legal defense committee; (3) filing schedule; (4) limitations on use of legal defense funds; (5) disposition of remaining funds; and (6) termination and reopening of committees.

Topics for Discussion. Should the new regulation governing local candidates and officers have rules that differ from those found in Regulation 18530.4 (relating to state candidates and officers) involving establishment, use, required recordkeeping, audits and termination of legal defense accounts? If so, why should provisions be different? Are there special circumstances regarding local candidates and officers that should be considered?

a. Local Contribution and Other Limits. How should state law be construed in relation to local legal defense ordinances? For instance, may a local jurisdiction impose any limits on legal defense fund contributions? May a jurisdiction prohibit the establishment of a separate legal defense fund if provided by local ordinance?

b. Separate Legal Defense Accounts. Should local candidates and/or officers establish separate legal defense accounts and committees for each local elective office to which the legal proceeding or proceedings relate? (There may be different contribution limits for different offices.)

2. Gifts to an Agency – Amendments to Regulation 18944.2 (11 a.m. – 12 noon)

Gifts to public officials and candidates are limited under the Act to \$390 per year per source. In addition, public officials and candidates who receive gifts are subject to gift reporting and disqualification rules. In certain circumstances, however, a gift that benefits an official's agency without providing any significant or unusual benefit to the official, is exempt from the gift limits under the gifts to an agency regulation. Existing Regulation 18944.2 provides that a gift is considered a gift to the agency, not to the public official, if (1) the agency receives and controls the payment, (2) the payment is used for official agency business, (3) the agency determines the official(s) who shall use the payment, and (4) the agency memorializes the payment in a written public record. In January 2007, the Commission held a prenotice discussion of a possible amendment to the gift to an agency regulation concerning whether the donor of a gift of airfare or lodging for agency staff must make the payment to the agency, or whether the payment could be made directly to the airline or hotel. At that meeting, broader questions were raised by the Commission and the regulated community concerning the appropriate scope of the gift to an agency regulation.

Among other things, staff is examining possible modifications to the gifts to an agency regulation such as: restricting gifts to an agency to agency staff, i.e., non-elected officials, certain appointed officials and staff members; restricting gifts to an agency for purposes of travel; modifying the procedure for determining who uses the payment received as a gift to an agency; requiring the agency to disclose its written record of gifts received on the agency's or FPPC's website, instead of the agency's filing the record internally.

At the meeting, staff looks forward to a discussion of the above topics or other issues related to these regulations that the public may raise. If you have any questions regarding the meeting, please contact Emelyn Rodriguez or Hyla Wagner, Commission Counsel, Legal Division, at (916) 322-5660.